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**TRANSMITTAL
FORM**

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Total Number of Pages in This Submission

Application Number	10/650,494
Filing Date	August 28, 2003
First Named Inventor	Bradley T. Estes
Art Unit	3733
Examiner Name	Annette R. Reimers
Attorney Docket Number	MSDI-479/PC457.06

ENCLOSURES (Check all that apply)

<input type="checkbox"/> Fee Transmittal Form	<input type="checkbox"/> Drawing(s)	<input type="checkbox"/> After Allowance Communication to TC
<input type="checkbox"/> Fee Attached	<input type="checkbox"/> Licensing-related Papers	<input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences
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SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

Firm Name	Krieg DeVault LLP		
Signature			
Printed name	Brad A. Schepers		
Date	December 12, 2006	Reg. No.	45,431

CERTIFICATE OF TRANSMISSION/MAILING

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Typed or printed name	Brad A. Schepers	Date	December 12, 2006

This collection of information is required by 37 CFR 1.5. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to 2 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re patent application of:
Estes et al.

Application Serial No. 10/650,494

Filed August 28, 2003

LATERALLY EXPANDING
INTERVERTEBRAL FUSION DEVICE

) Before the Examiner:
) Annette R. Reimers
)

) Group Art Unit 3733
)

) Ref. No. MSDI-479/
) PC457.06
)

) December 12, 2006
)

RESPONSE TO NON-FINAL OFFICE ACTION

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

In response to the non-final Office Action dated September 13, 2006, please enter and consider the following remarks. Additionally, please provide any extensions of time necessary and charge any additional fees which may be necessary to Deposit Account No. 12-2424, but not to include any payment of issue fees.

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December 12, 2006

Date of Deposit

Brad A. Schepers

Name of Registered Representative

Signature

December 12, 2006

Date of Signature

INTRODUCTORY COMMENTS

Claims 2-4, 15 and 28-103 are pending in the subject application. Claims 4, 32-34, 47-49, 51-56, 65, 66, 77, 78 and 89-103 have been withdrawn from consideration. The remaining claims currently stand rejected. In view of the following amendments and remarks, reconsideration and allowance of the subject application are hereby requested.